

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

FEI FEI FAN,

Plaintiff,

v.

YAN YAO JIANG,

Defendant.

Case No. 3:21-cv-00458-MMD-CSD

ORDER

I. SUMMARY

Following remand from the United States Court of Appeals for the Ninth Circuit, Plaintiff Fei Fei Fan is pursuing a “forced labor claim under 18 U.S.C. § 1589(a)(4) for the 2015-2019 period” and related state-law claims against Defendant Yan Yao Jiang. (ECF No. 125 (“Memorandum”) at 3-5; *see also* ECF No. 130 (executing the Ninth Circuit’s mandate).)¹ Before the Court are: (1) Jiang’s motion for judgment on the pleadings (ECF No. 165 (“Motion”))²; and (2) several objections that Fan filed to pretrial orders issued by United States Magistrate Judge Craig S. Denney (ECF Nos. 187, 195, 200, 224). As further explained below, the Court will mostly grant the Motion because portions of Fan’s claims are time barred consistent with the Memorandum and overrule Fan’s objections.

II. DISCUSSION

The Court first addresses the Motion and then Fan’s pending objections.

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¹Judge Robert C. Jones issued the orders addressed in the Memorandum. (ECF No. 125; *see also* ECF Nos. 107, 108.) Judge Jones later issued an order granting former Defendant Wei Wu’s motion for attorneys’ fees and costs in the amount of \$84,462.21 “against both Plaintiff Fan and her counsel.” (ECF No. 122.) This case was reassigned to the Court after Judge Jones issued that order on fees and costs (ECF No. 124) but before the Ninth Circuit issued the Memorandum (ECF No. 125).

²Fan responded (ECF No. 182) and Jiang replied (ECF No. 185).

1 **A. The Motion**

2 For each claim on which the Ninth Circuit has permitted Fan to proceed on remand,
3 Jiang seeks to limit its potential temporal scope based on the Memorandum and the
4 pertinent statutes of limitations and makes alternative arguments as to why each claim
5 should be dismissed, either in part, or in its entirety. (ECF No. 165.) The Court agrees
6 with Jiang that the prospective temporal scope of Fan's claims must be limited based on
7 the Memorandum but finds Jiang's alternative arguments for dismissal mostly
8 unpersuasive. Like Jiang did in his Motion, the Court addresses the parties' arguments
9 on a claim-by-claim basis below.

10 But before it does that, the Court addresses several general arguments that Fan
11 raises in response to the Motion. (ECF No. 182.) For example, Fan argues that Jiang's
12 Motion is premature because Fan should first be given more opportunities to conduct
13 discovery (*id.* at 4), but Jiang's Motion complies with Judge Denney's operative
14 scheduling order (ECF No. 142), and as Jiang argues in reply (ECF No. 185 at 2-3), the
15 Motion properly focuses on Fan's allegations in her Complaint under Fed. R. Civ. P. 12(c);
16 it is not a motion for summary judgment filed under Fed. R. Civ. P. 65.

17 Fan also argues that it is generally improper to resolve statutes of limitations
18 arguments on a Rule 12(c) motion like the Motion, particularly because she has alleged
19 continuing violations of her rights. (ECF No. 182 at 2-7.) However, Jiang persuasively
20 replies that the Ninth Circuit's Memorandum largely forecloses this general argument.
21 (ECF No. 185 at 1-3.) The Ninth Circuit found that, "the limitations issue was apparent on
22 the face of the complaint, and Fan has not pleaded a continuity of Jiang's 2006–2008
23 conduct extending into the statutory period," and accordingly affirmed dismissal of her
24 federal claims based on conduct that occurred during that initial period when Fan was a
25 graduate student studying under Jiang at the University of Nevada, Reno ("UNR"). (ECF
26 No. 125 at 2-3.) Indeed, following remand, Fan is only proceeding on a federal forced
27 labor claim, "for the 2015–2019 period." (*Id.* at 3.) There is accordingly little room under
28 the rule of mandate for Fan's argument that she can proceed on her claims to the extent

1 they are based on conduct the Ninth Circuit already found falls outside the statute of
 2 limitations, whether on a continuing violations theory or otherwise. To the contrary, her
 3 forced labor claim must be based on conduct that occurred during “the 2015–2019 period”
 4 or more recently. (*Id.*) Moreover, the Ninth Circuit’s finding that limitations issues are clear
 5 from the face of the Complaint renders unpersuasive Fan’s reliance on *Supermail Cargo,*
 6 *Inc. v. United States*, 68 F.3d 1204, 1206 (9th Cir. 1995) (“Because the applicability of the
 7 equitable tolling doctrine often depends on matters outside the pleadings, it ‘is not
 8 generally amenable to resolution on a Rule 12(b)(6) motion.’”). (ECF No. 182 at 6.) The
 9 Ninth Circuit’s Memorandum implicitly forecloses the applicability of the equitable tolling
 10 doctrine to Fan’s claims.

11 Fan also argues the Motion reflects serial, improper, and sanctionable conduct on
 12 Jiang’s part. (See *generally* ECF No. 182.) But as noted, there is nothing procedurally
 13 improper about Jiang’s Motion, so the Court will proceed to address his arguments raised
 14 in it below, keyed to Fan’s claims.³

15 1. Forced Labor

16 Jiang first argues this claim is time-barred to the extent it is based on conduct that
 17 occurred before October 25, 2011, because the Ninth Circuit found in the Memorandum
 18 that a ten-year statute of limitations applied to all of Fan’s federal claims.⁴ (ECF No. 165
 19 at 3-4.) Fan does not raise any argument more specific than the general one mentioned
 20 above as to Jiang’s statute of limitations argument regarding this claim. (ECF No. 182.)
 21 The Court agrees with Jiang.

22
 23 ³It is true that the Court denied two motions Jiang filed after the Ninth Circuit issued
 24 its Memorandum but before Judge Denney issued a new scheduling order (ECF Nos.
 25 128, 130, 131, 132) and overruled Jiang’s objection to Judge Denney’s decision to reopen
 26 discovery (ECF No. 148), but the Court has not previously ruled on the merits of Jiang’s
 arguments presented in the Motion. And as noted, the Motion complies with the operative
 scheduling order. The Court accordingly rejects Fan’s assertions that it was somehow
 improper of Jiang to file the Motion.

27 ⁴Jiang mistakenly refers to the forced labor claim as Count I (ECF No. 165 at 3),
 28 but Fan listed her forced labor claim as Count II in her Complaint (ECF No. 1 at 11-12).
 The Ninth Circuit affirmed dismissal of Fan’s federal sex trafficking claim (ECF No. 125
 at 2-4), which Fan labelled Count I in her Complaint (ECF No. 1 at 10-11). The Court
 addresses the forced labor claim in this section.

1 Because the Ninth Circuit found the ten year statute of limitations applies to Fan's
2 forced labor claim under 18 U.S.C. § 1589(a)(4), her forced labor claim cannot proceed
3 based on any conduct that occurred before October 25, 2011. (ECF No. 125 at 2-4.)

4 Jiang otherwise argues this claim should be dismissed to the extent it is based on
5 any conduct from the 2008-15 timeframe described in the Complaint because there is
6 only one conclusory paragraph in the Complaint regarding her interactions with Jiang
7 during that time, when she was not in Reno. (ECF No. 165 at 4.) Fan counters that, while
8 concise, these allegations reflect a pattern of coercion during that time, and requests
9 leave to amend to the extent the Court disagrees. (ECF No. 182 at 2-3.) The Court agrees
10 with Jiang but will grant Fan leave to amend this claim.

11 In finding Fan had plausibly alleged this claim to the extent it arose from conduct
12 covering the 2015-19 time period, the Ninth Circuit focused on her allegations "that Jiang
13 caused her 'serious harm' in that he brainwashed her into believing he was responsible
14 for her employment, and 'caused [her] to believe that if [she] withheld sex from [him], [she]
15 would suffer harm and damage on her visa, schooling prospects, stipend, degree, and
16 employment.'" (ECF No. 125 at 3.) This same reasoning is inapplicable to Fan's forced
17 labor claim to the extent it is based on conduct that occurred between 2008-15 because
18 Fan did not work for Jiang at that time and was not even in Reno. (ECF No. 1 at 7.) While
19 alarming, Fan's allegation in paragraph 42 of her Complaint does not plausibly allege
20 forced labor because Fan does not allege she was working for Jiang at the time, much
21 less that he forced her to work for him. (*Id.*) The Court accordingly dismisses Fan's forced
22 labor claim to the extent it is based on conduct that occurred between 2008-15.

23 But the Court grants Fan leave to amend this claim within 30 days if she wishes.
24 However, any allegations in any amended complaint she files must only discuss conduct
25 that occurred on October 25, 2011, or more recently, consistent with the Court's findings
26 above. Moreover, any amended allegations must be pertinent to Fan's forced labor claim
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28

1 under 18 U.S.C. § 1589(a)(4).⁵ The Ninth Circuit affirmed dismissal of her other federal
2 claims. (ECF No. 125 at 2-3.) In deciding to grant her leave to amend, the Court considers
3 that Fan is proceeding pro se, has not previously been granted leave to amend, and her
4 original complaint was filed back in 2021 by counsel that she later parted ways with,
5 unhappy with the services he provided. The Court further finds, liberally construed, that
6 Fan's allegations in paragraph 42 could conceivably be consistent with a forced labor
7 claim given significantly more elaboration. In sum, the Court grants Fan leave to amend
8 this claim as specified herein.

9 **2. Sex Trafficking**

10 As to Fan's sex-trafficking claim under Nevada law, Jiang argues it is time barred
11 under the applicable six-year statute of limitations to the extent it is based on conduct that
12 occurred before October 25, 2015, and more generally argues it fails because Fan fails
13 to allege "prostitution," which must mean sex in exchange for "currency or money[.]" (ECF
14 No. 165 at 4-9.) Fan does not specifically respond to Jiang's statute of limitations
15 argument as to this claim, but counters that a commercial sex act under NRS § 201.300
16 includes sex in exchange for anything of value. (ECF No. 182 at 7-8, 9-10.) The Court
17 agrees with Jiang on his statute of limitation argument, but not his broader argument
18 about the statutory meaning of the term prostitution.

19 Fan's sex trafficking claim under NRS § 201.300 is subject to a six year statute of
20 limitations. See NRS § 171.085(3). It is accordingly barred to the extent it is based on
21 conduct that occurred before October 25, 2015. This finding, in turn, means that Fan's
22 sex trafficking claim under NRS § 201.300 is not plausibly alleged because it appears
23 primarily based on the allegation that, "Jiang knowingly recruited Fan from China to Reno,
24 Nevada in the United States in the name of study at UNR." (ECF No. 1 at 13.) Other
25 allegations in the Complaint state that this happened in 2006. (*Id.* at 1-6.) This claim is
26 accordingly time barred.

27
28 ⁵The Court mentions this because Fan argues about her federal sex trafficking
claim in response to the Motion. (ECF No. 184 at 7.) As noted, the Ninth Circuit affirmed
dismissal of this claim. (ECF No. 125 at 2-4.)

1 However, yet more allegations in the Complaint suggest to the Court that this claim
 2 could be amended, so the Court will grant Fan leave to amend this claim as well.
 3 Specifically, Fan generally alleges that Jiang forced Fan to engage in numerous
 4 commercial sex acts (*id.* at 13), and otherwise alleges that their abusive sexual
 5 relationship resumed during the 2015-2020 time period, which would mostly not be time
 6 barred (*id.* at 2, 7). Thus, Fan amend this claim to the extent it is based on conduct that
 7 occurred on October 25, 2015, or later.

8 As mentioned, however, the Court is unpersuaded by Jiang's broader argument
 9 that Fan fails to allege "prostitution" under NRS § 201.300 because she fails to allege
 10 Jiang paid her money for sex. (ECF No. 165 at 5-9.) The plain language of the statute is
 11 inconsistent with Jiang's argument, defining prostitution as "engaging in sexual conduct
 12 with another person in return for a fee, monetary consideration or other thing of value."
 13 NRS § 201.295(5). Construing Fan's Complaint in the light most favorable to her, see *Soo*
 14 *Park v. Thompson*, 851 F.3d 910, 918 (9th Cir. 2017) (instructing the Court to view it this
 15 way when evaluating the Motion), her allegations pertinent to the 2015-20 time period
 16 that she had sex with Jiang because he exerted influence over the committee that would
 17 decide whether to grant her tenure and "brainwash[ed] Fan that it was Jiang who made
 18 Fan hired by UNR" could be other things of value. (ECF No. 1 at 7.) Said otherwise, both
 19 a job and a tenured job more specifically are things of value. And Jiang proffers no binding
 20 precedent supporting the implausibly restrictive view of NRS § 201.295(5) he presents in
 21 his Motion. The Court accordingly rejects Jiang's broader argument as unpersuasive.⁶

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24 ⁶Fan makes an additional argument in response to the Motion based on the
 25 proposition that NRS § 201.300 "mirrors the federal TVPRA." (ECF No. 84 at 7-8.) Fan
 26 supports this proposition with a citation to a case that Jiang describes as 'fabricated or
 27 hallucinated' in reply. (ECF No. 185 at 5-6.) The Court was not able to locate *State v.*
 28 *Nelson*, 357 P.3d 420, 423 (Nev. 2015), either. Jiang accordingly appears correct that
 this citation may be 'fabricated or hallucinated.' Rule 11 applies to pro se litigants like
 Fan, exposing her to the risk of sanctions if she makes legal contentions unwarranted by
 existing law. See *Warren v. Guelker*, 29 F.3d 1386, 1388-90 (9th Cir. 1994). The Court
 accordingly cautions Fan against relying on cases whose existence the Court is unable
 to verify, regardless of the means Fan may be using to assist her with legal research.

3. Involuntary Servitude

Jiang next argues that Fan's involuntary servitude claim under NRS § 200.463 is time barred under the applicable three year statute of limitations to the extent it is based on any conduct predating October 25, 2018, including allegations related to babysitting, grip fabricating, or forced sex before that date. (ECF No. 165 at 9-10.) Fan does not specifically respond to the statute of limitations portion of this argument but does state that "[i]nvoluntary servitude under NRS 200.463 is not limited to physical restraint or confinement." (ECF No. 182 at 8.) In part because Fan's responsive argument is beside the point, the Court agrees with Jiang.

Involuntary servitude under NRS § 200.463 is a category B felony. See *id.* However, a victim of it may bring a civil action against the person who trafficked them. See NRS § 41.1399(10)(a). Civil claims for involuntary servitude, like Fan's here, are subject to a three year statute of limitations. See NRS § 171.085(4.) Fan's involuntary servitude claim under NRS § 200.463 is therefore time-barred to the extent it is based on conduct that occurred before October 25, 2018.

As currently alleged, Fan's claim relies on time-barred conduct including babysitting. (ECF No. 1 at 14.) The Court thus dismisses it without prejudice. However, like the Court is doing with her other claims, the Court grants Fan leave to amend her involuntary servitude claim so that it is based only on conduct that occurred on October 25, 2018, or later.

4. Intentional Infliction of Emotional Distress

Jiang further argues that Fan's intentional infliction of emotional distress ("IIED") claim is time barred to the extent it is based on conduct occurring before October 25, 2019, and otherwise argues Fan's IIED claim is barred by the litigation privilege to the extent it is based on Jiang sending a cease-and-desist letter and later applying for a protective order against Fan. (ECF No. 165 at 11-12.) Fan does not specifically respond to the statute of limitations portion of Jiang's argument, but generally argues an IIED claim may be based on "nonphysical exploitation of vulnerable individuals through manipulation

1 and deception” (ECF No. 182 at 7), and otherwise opposes application of the litigation
2 privilege (*id.* at 11-12). The Court agrees with both of Jiang’s arguments.

3 In Nevada, IIED claims must be brought within two years. See NRS § 11.190(4)(e);
4 see also *Mwithiga v. Pierce*, 758 F. Supp. 3d 1230, 1241 (D. Nev. 2024), *appeal*
5 *dismissed*, No. 25-240, 2025 WL 1119677 (9th Cir. Jan. 24, 2025) (asserting that NRS §
6 11.190(4)(e) provides the applicable two year statute of limitations for IIED claims in
7 Nevada). The Court accordingly agrees with Jiang that Fan’s IIED claim is time-barred to
8 the extent is based on conduct that occurred before October 25, 2019.

9 As she characterizes it in her Complaint, Fan’s IIED claim is based on “many
10 violent rapes and threats to keep everything secret[.]” (ECF No. 1 at 15.) Such conduct
11 could conceivably result in severe emotional distress. However, Jiang is correct (ECF No.
12 165 at 11) that the IIED section of Fan’s Complaint incorporates by reference the
13 preceding paragraphs of Fan’s Complaint (ECF No. 1 at 15), and many of the factual
14 allegations regarding Jiang’s conduct towards Fan after October 25, 2019, describe Jiang
15 sending Fan a cease-and-desist letter, and later applying for a Protection Order against
16 Fan (*id.* at 8-10). It is otherwise unclear from the allegations in the Complaint detailing
17 this time whether Fan and Jiang’s allegedly abusive sexual relationship continued after
18 October 25, 2019. (*Id.*)

19 To the extent Jiang sending the cease-and-desist letter and applying for the
20 Protection Order against Fan forms the factual basis for Fan’s IIED claim, it is barred by
21 the litigation privilege. The litigation privilege applies to “communications preliminary to a
22 proposed judicial proceeding.” *Williams v. Lazer*, 495 P.3d 93, 100 (Nev. 2021) (citations
23 omitted). A cease and desist letter and an application for a Protection Order are
24 preliminary to proposed judicial proceedings—and the litigation privilege thus applies to
25 claims based on sending one, or applying for one. See *Scoyni v. Salvador*, No. 20-35123,
26 2021 WL 5002213, at *1 (9th Cir. Oct. 28, 2021) (finding the litigation privilege barred
27 claims based on the sending of a “cease and desist letter”); *Weiser L. Firm PC v. Hartleib*,
28 No. 23-55693, 2024 WL 4987351, at *2 (9th Cir. Dec. 5, 2024) (finding the litigation

1 privilege barred claims based on challenges to a “protective order”). And contrary to Fan’s
2 argument in response to the Motion (ECF No. 182 at 11-12), the litigation privilege applies
3 even to documents and communications that the author or speaker knows to be false.
4 *See Clark Cnty. Sch. Dist. v. Virtual Educ. Software, Inc.*, 213 P.3d 496, 502 (Nev. 2009).
5 The Court accordingly finds that Fan’s IIED claim against Jiang is barred by the litigation
6 privilege to the extent it is based on Jiang sending Fan a cease-and-desist letter or
7 applying for a Protection Order against her.

8 However, as noted, Fan’s IIED claim against Jiang is based on “many violent rapes
9 and threats to keep everything secret[.]” (ECF No. 1 at 15.) To the extent that these violent
10 rapes and threats continued after October 25, 2019, Fan’s IIED claim is not barred.
11 Jiang’s Motion is correspondingly denied in part. However, Fan may also amend this
12 claim if she chooses to file an amended complaint to reflect the Court’s rulings above that
13 her IIED claim must be based on conduct that occurred on October 25, 2019, or later,
14 and may not be based on Jiang sending a cease-and-desist letter or applying for a
15 Protection Order.

16 **5. Defamation**

17 Like Fan’s IIED claim, Jiang argues her defamation claim is time barred to the
18 extent it is based on conduct that occurred before October 25, 2019, and is barred by the
19 litigation privilege to the extent it is based on Jiang sending a cease-and-desist letter or
20 applying for a Protection Order. (ECF No. 165 at 12.) For the reasons the Court provided
21 above as to Fan’s IIED claim, the Court agrees with Jiang. Defamation claims are also
22 subject to a two year statute of limitations in Nevada. *See* NRS § 11.190(4)(c). And the
23 litigation privilege bars defamation claims when it applies to them. *See Clark Cnty. Sch.*
24 *Dist.*, 213 P.3d at 502. Thus, Fan’s defamation claim is barred to the extent it is based on
25 conduct that occurred before October 25, 2019, or based on Jiang sending a cease-and-
26 desist letter or applying for a Protection Order.

27 However, Fan’s defamation claim does not appear to be primarily based on Jiang
28 sending a cease-and-desist letter or applying for a Protection Order. It instead appears

1 based on Jiang spreading “false and defamatory statements about Fan at workplace”
2 beginning in August 2020. (ECF No. 1 at 10; *see also id.* at 15 (“The defamatory
3 statements were statements indicating that Fan committed crimes and was proactively
4 engaging in sexual misconduct, which are incompatible with Fan’s profession.”).) Jiang’s
5 Motion is not directed at this conduct during this time, and, for clarity, Jiang’s Motion is
6 denied to the extent it seeks complete dismissal of Fan’s defamation claim. Fan may
7 proceed on her defamation claim to the extent it is based on Jiang making statements to
8 Fan’s coworkers starting in August 2020.

9 That said, like the Court has done with Fan’s other claims, the Court grants Fan
10 leave to amend her defamation claim to the extent she wishes to make it more clearly
11 compliant with this portion of this order, or to elaborate on Jiang’s allegedly defamatory
12 conduct starting in August 2020 that is not barred by the litigation privilege.

13 If Fan chooses to file an amended complaint consistent with this order, she must
14 file it within 30 days. If Fan does not file an amended complaint, she will be proceeding
15 only on her IIED and defamation claims to the extent those claims are based on conduct
16 that occurred on October 25, 2019, or later, and to the extent they are not based on Jiang
17 sending a cease-and-desist letter or applying for a Protection Order against Fan. The
18 Court encourages Fan to carefully review this order if she chooses to prepare an
19 amended complaint.

20 The Court further cautions Fan that she will waive her ability to file an amended
21 complaint if she does not file one within 30 days.

22 **B. Fan’s Pending Objections to Judge Denney’s Orders**

23 The Court now turns to Fan’s pending objections to some of Judge Denney’s
24 orders. Magistrate judges are authorized to resolve pretrial matters subject to district court
25 review under a “clearly erroneous or contrary to law” standard. 28 U.S.C. § 636(b)(1)(A);
26 *see also* Fed. R. Civ. P. 72(a); LR IB 3-1(a) (“A district judge may reconsider any pretrial
27 matter referred to a magistrate judge in a civil or criminal case pursuant to LR IB 1-3,
28 where it has been shown that the magistrate judge’s ruling is clearly erroneous or contrary

1 to law.”). “This subsection . . . also enable[s] the court to delegate some of the more
 2 administrative functions to a magistrate, such as . . . assistance in the preparation of
 3 plans to achieve prompt disposition of cases in the court.” *Gomez v. United States*, 490
 4 U.S. 858, 869 (1989) (citation omitted). A finding is clearly erroneous when although there
 5 is evidence to support it, the reviewing court on the entire evidence is left with the definite
 6 and firm conviction that a mistake has been committed. *See Concrete Pipe & Prods. of*
 7 *California, Inc. v. Constr. Laborers Pension Tr. for S. California*, 508 U.S. 602, 622 (1993).
 8 A magistrate judge’s pretrial order issued under 28 U.S.C. § 636(b)(1)(A) is not subject
 9 to de novo review, and the reviewing court “may not simply substitute its judgment for that
 10 of the deciding court.” *Grimes v. City & County of San Francisco*, 951 F.2d 236, 241 (9th
 11 Cir. 1991) (citation omitted).

12 The Court addresses each of Fan’s pending objections under this standard in turn,
 13 below.

14 **1. ECF No. 187**

15 Fan objects to two of Judge Denney’s orders in this objection, so the Court will
 16 address Fan’s objection one order at a time.

17 Fan first objects to an order where Judge Denney granted her an extension of time
 18 to respond to the Motion (ECF No. 181) because he did not discuss in it how Fan had
 19 filed a motion to extend her time to respond to the motion, how Jiang had opposed it, and
 20 because Judge Denney ignored the motion practice regarding Fan’s requested extension
 21 of her time to respond in noting that Jiang later filed a notice of non-opposition to the
 22 Motion. (ECF No. 187 at 2.) Fan basically accuses Judge Denney of being biased towards
 23 Jiang. (*Id.*)

24 However, Judge Denney did not clearly err in granting Fan an extension of time to
 25 respond to the Motion, even though he did not discuss Fan’s attempt over Jiang’s
 26 opposition to get her deadline extended. Indeed, Judge Denney ultimately gave Fan a
 27 longer extension of time than she asked for. (*Compare* ECF No. 172 (requesting an
 28 extension to April 14, 2025) *with* ECF No. 181 (granting Fan an extension until April 25,

1 2025).) And if Judge Denney had simply granted Fan's motion for extension of time, Fan's
2 response to the Motion would have been untimely because she did not file it until April
3 22, 2025. (*Compare* ECF No. 172 (requesting an extension to April 14, 2025) *with* ECF
4 No. 182 (filed April 22, 2025).) But what matters is that Judge Denney gave Fan an
5 opportunity to substantively respond to the Motion because public policy favors the
6 disposition of cases on their merits. *See Pagtalunan v. Galaza*, 291 F.3d 639, 643 (9th
7 Cir. 2002) ("Public policy favors disposition of cases on the merits."). And, as noted above
8 in the portion of this order addressing the Motion, the Court considered Fan's response
9 to the Motion in ruling on it. Fan was accordingly not prejudiced by the fact that Judge
10 Denney did not discuss her motion for an extension of time and the dispute about it when
11 he granted her a longer extension of time than she asked for to respond to the Motion.

12 Fan next objects to an order (ECF No. 184) in which Judge Denney cautioned her
13 to file motions when she seeks court intervention instead of notices—under the Federal
14 and Local Rules—and to comply with his discovery dispute process outlined in his
15 standing order. (ECF No. 187 at 2-4.) Fan suggests that this order deprives her of due
16 process and that Judge Denney is partial to Jiang. (*Id.*) The Court is unpersuaded.

17 Judge Denney did not clearly err in cautioning Fan to file motions instead of notices
18 and comply with his practices for resolving discovery disputes to the extent a discovery
19 dispute had arisen. (ECF No. 184.) Judge Denney accurately summarized the applicable
20 Local Rules and discovery dispute resolution procedures in his order. (*Id.*) Moreover,
21 "district courts have the inherent authority to manage their dockets and courtrooms with
22 a view toward the efficient and expedient resolution of cases." *Dietz v. Bouldin*, 579 U.S.
23 40, 47 (2016). And "[a]s a general matter, magistrate judges resolve discovery disputes
24 and other non-dispositive pretrial matters, while district judges resolve dispositive motions
25 and preside over trial." *Big City Dynasty v. FP Holdings, L.P.*, 336 F.R.D. 507, 512 (D.
26 Nev. 2020) (citing Fed. R. Civ. P. 72). Judge Denney's challenged order is consistent with
27 these principles. The Court overrules Fan's objection to it.

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1 Fan also argues cumulative error and requests specific relief because of it. (ECF
2 No. 187 at 4-5.) But because the Court does not find that Judge Denney erred in either
3 of the challenged orders (ECF Nos. 181, 184), the Court does not find that Judge Denney
4 cumulatively erred, either. Fan's objection (ECF No. 187) is overruled.

5 **2. ECF No. 195**

6 Fan next objects to Judge Denney's order (ECF No. 186) denying her motion to
7 stay discovery pending resolution of Jiang's Motion. (ECF No. 195.) In his order, Judge
8 Denney first explained that he already took Fan's pro se status into account when he
9 reopened discovery and set the discovery period for 120 days. (ECF No. 186 at 1.)
10 Because one of the reasons Fan offered in support of her motion to stay discovery was
11 that she needed time to respond to the Motion, Judge Denney then noted that portion of
12 her request was moot since she had already responded to it. (*Id.*) Judge Denney next
13 observed that Fan had filed several other motions "instead of focusing her time and
14 resources on discovery since February 11." (*Id.* at 2.) Judge Denney proceeded to
15 analyze Fan's motion to stay discovery using the three factors described in *Kor Media*
16 *Group, LLC v. Green*, 294 F.R.D. 579, 581 (D. Nev. 2013), primarily reasoning both that
17 the Motion only sought partial judgment on the pleadings, so would not be dispositive of
18 Fan's claims, and that it was essentially unfair for Fan to delay this case, "because of her
19 focus on motions practice instead of discovery." (ECF No. 186 at 2-3.) He accordingly
20 decided to deny Fan's motion to stay discovery. (*Id.* at 3.)

21 In her objection, Fan initially argues that Judge Denney did not correctly apply the
22 standard from *Kor Media* but spends much of it arguing that it was unfair of Judge Denney
23 to characterize her as having pursued motion practice instead of discovery, because she
24 is pro se and thus faces structural disadvantages Jiang does not because he is
25 represented by counsel. (ECF No. 187.) However, Fan glosses over that Judge Denney
26 did analyze each of the three factors laid out in *Kor Media*. (ECF No. 186 at 2-3.) And
27 notably, Fan does not focus in her objection on the other main reason that led Judge
28 Denney to deny her motion to stay discovery—that the Motion was not dispositive.

1 (*Compare* ECF No. 187 *with* ECF No. 186 at 2-3.) Having analyzed the Motion above,
2 the Court can—and does—confirm that Judge Denney was correct. The Motion is not
3 fully dispositive of Fan’s claims against Jiang. Like Judge Denney found, that factor
4 accordingly weighed in favor of denying her Motion. And for this reason, Judge Denney
5 did not clearly err in declining to stay discovery.

6 Even focusing on the other reason Fan focuses on in her objection—that she
7 ‘chose’ to file motions instead of conducting discovery—the Court cannot say Judge
8 Denney clearly erred. Indeed, Fan implicitly acknowledges that Judge Denney did not
9 clearly err in writing, “[p]rocedural filings are not mutually exclusive with discovery efforts.”
10 (ECF No. 195 at 4.) That is essentially what he suggested she should have done in
11 offering one justification for his order: that he adopted a new schedule for discovery
12 cognizant of her pro se status, and she thus should have been able to both draft motions
13 and conduct discovery in the time he gave her. (ECF No. 186 at 2-3.) Expecting her to do
14 both, as she seems to acknowledge she should be able to in her objection, did not infect
15 Judge Denney’s order with clear error. The Court overrules Fan’s objection. (ECF No.
16 195.)

17 3. ECF No. 200

18 Fan next objects to one of Judge Denney’s orders in which he denied several
19 motions she filed regarding disputes with her former counsel in this case. (ECF No. 188.)
20 The gist of Judge Denney’s challenged order is that he declined to get involved in disputes
21 between Fan and her former counsel, Ryan Cann. (*Id.*)

22 However, Judge Denney offered more specific reasoning for his denial of each of
23 the motions he denied in that order. Judge Denney first denied Fan’s motion essentially
24 asking that Cann be required to pay all the monetary sanctions Judge Jones ordered Fan
25 and Cann to pay jointly following his dismissal of Fan’s claims against Wu. (*Id.* at 1-2.)
26 Judge Denney noted that Judge Jones specified in his order that Fan and Cann were
27 jointly responsible for the sanctions award, and Fan did not timely appeal or seek
28

1 reconsideration of that award. (*Id.*) Judge Denney stated in closing that he was not going
2 to get involved in any further disputes between Fan and Cann. (*Id.* at 2.)

3 Judge Denney next denied two motions Fan filed focused primarily on getting Cann
4 to return his case file to Fan as moot because Cann stated in a written filing that he gave
5 it back to her. (*Id.*) Judge Denney then explained that Fan should raise any further
6 disputes about Cann with the state bar and asserted that he lacked jurisdiction over Cann
7 since he had already granted Cann's motion to withdraw as counsel. (*Id.*) Judge Denney
8 finally denied a motion Fan filed seeking to strike a response that Cann filed captioned
9 with his own name instead of as Fan's lawyer in apparent response to another motion
10 Fan filed asking him to do so. (*Id.* at 3; *see also* ECF Nos. 143, 150, 155, 160.)

11 Fan's primary arguments in her objection to this order resolving several motions
12 are displeasure Judge Denney declined to adjudicate her disputes with her former
13 counsel, arguments to the effect that he did not offer enough analysis in his order denying
14 her motions, and arguments to the effect that he violated her due process rights in issuing
15 his order. (ECF No. 200.) Fan goes so far as to say that Judge Denney, "abandoned the
16 judicial function altogether." (*Id.* at 2.)

17 The Court understands that Fan is upset with her prior counsel and finds it
18 reasonable that Fan would not want to be responsible for approximately 80 thousand
19 dollars in sanctions, but does not find that Judge Denney clearly erred in the decisions
20 making up the challenged order.

21 As to the first portion of the challenged order, Judge Denney is correct that Judge
22 Jones concluded his March 20, 2024, order with the sentence, "Defendant Wu is entitled
23 to \$84,462.21 in attorney's fees and costs against both Plaintiff Fan and her counsel."
24 (ECF No. 122 at 12.) Judge Denney is also correct that there is no record on the docket
25 that Fan either sought reconsideration or appealed that order. Moreover, while the Ninth
26 Circuit found that it lacked jurisdiction over the sanctions award Judge Jones ultimately
27 issued because Judge Jones had not determined a specific amount at the time of her
28 appeal (ECF No. 125 at 2), the Ninth Circuit affirmed Judge Jones' dismissal of Fan's

1 claims against Wu, finding they “failed as a matter of law” (*id.* at 4-5). The Ninth Circuit
2 accordingly affirmed the necessary predicate to Judge Jones’ finding that Fan’s claims
3 against Wu were frivolous leading to the sanctions award—in that it affirmed dismissal of
4 the claims. (*Id.*)

5 Fan also does not dispute that neither she nor her counsel sought reconsideration
6 of, or appealed, this fee award—or that Judge Jones found them jointly and severally
7 liable in the order. (ECF No. 200.) Judge Denney’s decision to stay out of any further
8 dispute between Fan and Cann about who will pay the award thus appears to rest on a
9 solid legal foundation. And while Fan argues that Judge Denney did not explicitly discuss
10 Fed. R. Civ. P. 60 in his analysis, or address Fan’s objection to the fact that Jiang filed a
11 response to the motion, the Court does not find that these arguments evidence error. (*Id.*
12 at 3.) Judge Denney did not need to explicitly discuss Fed. R. Civ. P. 60 in his analysis to
13 draw the reasonable conclusion that the time to appeal has elapsed. And the peripheral
14 dispute of whether Jiang may weigh in on the motion was immaterial to resolving the
15 motion as well, so Judge Denney did not clearly err in declining to address it. In sum,
16 Judge Denney did not clearly err in declining to allocate sole responsibility to Cann for the
17 \$84,462.21 in attorney’s fees and costs awarded as a sanction against Fan and Cann.

18 Fan otherwise argues Judge Denney clearly erred in accepting Cann’s
19 representation that he had transmitted his case file to Fan, declining to sanction Cann in
20 part because he had already granted Cann’s motion to withdraw, and resolving Fan’s
21 motions regarding Cann filing several documents listing himself as Fan’s counsel after he
22 was permitted to withdraw. (ECF No. 200 at 4-6.) But Judge Denney had already granted
23 Cann’s motion to withdraw before all the briefing Fan raises in her objection occurred.
24 (ECF No. 142 (granting motion to withdraw); ECF No. 200 at 4-6 (referencing ECF Nos.
25 157, 173, 150, 155, 162).) Cann’s representation of Fan ended when Judge Denney
26 granted his motion to withdraw. *See, e.g., Cove/Mallard Coal. v. U.S. Forest Serv.*, 67 F.
27 App’x 426, 428 n.3 (9th Cir. 2003). Judge Denney had no obligation and indeed no
28 jurisdiction to resolve Fan’s dispute with Cann from that point forward. Indeed, as Judge

1 Denney indicated, Fan's recourse is to pursue other remedies against Cann including
2 before the state bar, not to seek relief from the Court. (ECF No. 188 at 2.)

3 In sum, the Court overrules Fan's objection. (ECF No. 200.)

4 **4. ECF No. 224**

5 Fan finally objects to two of Judge Denney's orders denying discovery motions
6 filed by both sides primarily for failure to first comply with the meet-and-confer
7 requirements embedded in the Court's Local Rules and Judge Denney's standing order,
8 though also for other noncompliance with Federal and Local Rules. (ECF No. 224
9 (objecting to ECF Nos. 204, 205).) Judge Denney did not clearly err in these two orders.
10 First, Judge Denney has broad discretion over pretrial discovery matters in this case. *See,*
11 *e.g., Four Pillars Enters. Co. v. Avery Dennison Corp.*, 308 F.3d 1075, 1078-79 (9th Cir.
12 2002). Second, the meet-and-confer requirement is of paramount importance in discovery
13 matters. *See, e.g., Martinez v. James River Ins. Co.*, No. 219CV01646RFBNJK, 2020 WL
14 13533708 (D. Nev. Jan. 23, 2020) (explaining why the meet-and-confer requirement is
15 important and enforcing it); *V5 Techs. v. Switch, Ltd.*, 334 F.R.D. 297, 302 (D. Nev. 2019)
16 ("These meet-and-confer requirements are very important and the Court takes them very
17 seriously."). Judge Denney did not clearly err in enforcing it against both sides. The Court
18 overrules Fan's objection. (ECF No. 224.)

19 **III. CONCLUSION**

20 The Court notes that the parties made several arguments and cited to several
21 cases not discussed above. The Court has reviewed these arguments and cases and
22 determines that they do not warrant discussion as they do not affect the outcome of the
23 issues before the Court.

24 It is therefore ordered that Jiang's motion for judgment on the pleadings (ECF No.
25 165) is granted, in part, and denied in part, as specified herein.

26 It is further ordered that, if Fan chooses to file an amended complaint consistent
27 with this order, she must file it within 30 days.

28 ///

1 It is further ordered that if Fan does not file an amended complaint within 30 days,
2 she will waive her chance to file one, and she will be proceeding only on her IIED and
3 defamation claims to the extent those claims are based on conduct that occurred on
4 October 25, 2019, or later, and to the extent these two claims are not based on Jiang
5 sending a cease-and-desist letter or applying for a Protection Order against Fan.

6 It is further ordered that Fan's several pending objections to pretrial orders issued
7 by United States Magistrate Judge Craig S. Denney (ECF Nos. 187, 195, 200, 224) are
8 overruled.

9 DATED THIS 23rd Day of June 2025.

A handwritten signature in blue ink, appearing to read 'Miranda M. Du', is written above a horizontal line.

MIRANDA M. DU
UNITED STATES DISTRICT JUDGE